

**Matter of:** T&S Products, Inc.

**File:** B-261852

**Date:** October 4, 1995

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Richard D. Lieberman, Esq., Sullivan & Worcester, for the protester.

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#### **DIGEST**

Protest that requirement for pressure sensitive adhesive shipping tape with a specified strength exceeds the agency's minimum needs and is restrictive of competition is denied where the agency demonstrates that the requirement is reasonably necessary to meet its needs.

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#### **DECISION**

T&S Products, Inc. protests the terms of request for proposals (RFP) No. 2FYS-95-BU-0010-N, issued by the General Services Administration (GSA) for shipping and mailing materials, including pressure sensitive adhesive tape. T&S contends that the specification for the adhesive tape is unduly restrictive of competition because it overstates the agency's minimum needs.<sup>1</sup>

We deny the protest.

The RFP, issued on May 22, 1995, contemplated the award of a fixed-price requirements contract for a total of 72 line items, including the adhesive tape (NSN7510-01-383-7967).<sup>2</sup>

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<sup>1</sup>In its initial protest, T&S also objected to the specification for floppy diskette mailers. Subsequently, the agency deleted this requirement from the RFP without objection from the protester. The only issue remaining is the reasonableness of the agency's specification for the adhesive tape.

<sup>2</sup>Items under this solicitation are primarily being procured by GSA for the United States Postal Service (USPS) as part  
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According to the protester, the specification for the adhesive tape, which referenced "3M Part No. Cat. 141 or equal," contained 24 different salient characteristics which an equal product had to meet. The specific requirement at issue is only one salient characteristic which stated that the adhesive tape shall have "holding power to fiberboard, min[imum of] 2,000 minutes at 73 [degrees] and 50 percent relative humidity" and which also referenced American Society for Testing and Materials (ASTM) D3654. The RFP stated that award would be made on an item-by-item basis to the low offeror based on the agency's estimated monthly requirements.

Subsequent to T&S's protest, which was filed with our Office prior to the initial closing date, the agency received initial offers. Four offers were received for the adhesive tape, with two offerors proposing the 3M product and two other offerors proposing their own equal manufactured products.

In its initial protest, T&S argued that the RFP specification (including ASTM D3654) requires that the tape achieve holding power to fireboard for 2,000 minutes with a weight of 1,000 grams applied during the test and that this requirement is excessive because "[t]he industry standard for [the adhesive tape] is only 5-10 minutes for this particular weight." The protester also stated that, consistent with its understanding, 3M products were the sole brands offered in response to this type of specification in GSA's solicitations during the past 3 years. However, in its comments on the agency report, the protester contends that "the industry standard [for adhesive tape] does not require 2000 minutes of holding power; [rather,] the industry standard is only about 1000-1200 minutes of holding power."<sup>3</sup>

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<sup>2</sup>(...continued)

of USPS' retail program which makes shipping materials available to postal customers on a retail basis in post offices nationwide.

<sup>3</sup>The protester also argues that there was no documentation furnished to GSA from the USPS indicating a requirement for 2,000-hour tape. Since the solicitation contained 72 line items with many hundreds of salient characteristics, we see no need for detailed agency documentation for every listed salient characteristic. As stated below, GSA's requirement for this item was based on USPS' notification that the adhesive tape be comparable to 3M Part No. 141. We see no reason why GSA could not make its own independent engineering and technical determination based on this  
(continued...)

A procuring agency is required to specify its needs in a manner designed to promote full and open competition, and may only include restrictive provisions in a solicitation to the extent necessary to meet the agency's minimum needs.

Omega World Travel, Inc., B-258374, Jan. 13, 1995, 95-1 CPD

¶ 20. Where a protester challenges a specification as unduly restrictive of competition, we will not disturb the agency's technical or engineering determination of its minimum needs unless that determination is unreasonable; if the agency's requirement is reasonable and necessary, then the fact that very few firms--or even only one firm--can comply does not demonstrate that the requirement is improper. See Computer Tomography Repair Serv., Inc., B-228050, Nov. 2, 1987, 87-2 CPD ¶ 428.

The agency states, and the record shows, that the determination of the technical requirements for the adhesive tape followed a series of meetings and discussions between GSA and representatives of the USPS. With respect to adhesive tape, the USPS specified that the tape must be comparable in quality to 3M Part No. 141. The USPS indicated that adhesive tape of this type and quality was necessary to securely close fiberboard shipping boxes to be placed in the mail by postal customers. Such boxes would be subjected to a variety of conditions during shipping and handling and that it was essential to the USPS that the taped boxes remain sealed during shipment to prevent loss or damage to the contents, thereby subjecting the USPS to additional expense for rehandling the items, liability for claims, and dissatisfaction of postal customers with the USPS product lines, resulting in a loss of customers.

The protester itself, in an affidavit from an expert, admits that "[t]here is no formal industry standard for the type of tape in the solicitation [and] there is no formal industry standard for the holding time to fiberboard."<sup>4</sup> The agency here obviously desires to purchase a stronger (2,000 minute) tape; the protester wants the agency to buy a weaker

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<sup>3</sup>(...continued)

general advice from USPS as to the technical requirements to be specified so long as this determination was reasonable. The protester also argues that there are other adhesive tape products with less holding power that can meet the agency's needs and which the agency has purchased in the past 3 years. These arguments, in our view, are irrelevant so long as the agency reasonably justifies its decision to purchase the stronger tape in the current solicitation.

<sup>4</sup>The protester's expert also does say that industry generally uses a weaker tape than that specified here by GSA.

(1,200 minute) tape. We think the decision to procure a stronger tape as opposed to a weaker tape is an engineering and technical judgment within the sound discretion of the agency; indeed, it is exactly the type of technical judgment that is the responsibility of agency engineering experts. Here, the record shows that the agency's Engineering and Commodity Management Division researched the products available to satisfy the USPS' needs and arrived at a determination that the stronger tape would be needed. We find nothing in the record to disturb this determination.<sup>5</sup>

The protest is denied.

Robert P. Murphy  
General Counsel

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<sup>5</sup>The protester also argues that only four manufacturers, including 3M, can meet this specification and that only 3M manufactures the adhesive tapes in the 22.5 yard length required by the RFP so that this procurement is essentially a "sole-source" procurement. We do not think the length of the tape, which can be easily modified by a manufacturer, renders this procurement an improper sole-source acquisition.